IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH, JAIPUR

::JUDGMENT::

SHABBIR HUSSAIN VS/ CIVIL JUDGE AND ORS.

D.B.SPECIAL APPEAL (WRIT) NO.138/2007 UNDER SECTION 18 OF THE RAJASTHAN HIGH COURT ORDINANCE ACT, AGAINST THE IMPUGNED ORDER DATED 11.10.206 PASSED IN SBCWP NO.6372/2004

DATE OF JUDGMENT ::: 2.2.2007

PRESENT

HON'BLE MRS.GYAN SUDHA MISRA,J.
HON'BLE MR.K.C.SHARMA,J.

Mr. Anoop Dhand for the appellant.

BY THE COURT:

This appeal has been preferred against the order of the learned Single Judge who has been pleased to dismiss the writ petition upholding the order of the trial Court which had been pleased to disallow the plaintiff-petitioner from examing the witnesses who had been produced before the trial Court for their examination.

Challenging the order of the trial Court it was submitted that the plaintiff-appellant has filed a suit for damages on account of illegal demolition of the wall at the instance of the defendant and in support of this incident, he wants to examine the neighbour and some

other witnesses which has been disallowed by the trial Court without assigning any reason.

Since the trial Court has not assigned any reason as to why the witnesses have been disallowed from examination and prima facie it appears that the witnesses, who are sought to be produced by the plaintiff-appellant, will have bearing on the consequence of the suit, we deem it appropriate in the interest of justice to grant liberty to the plaintiff-appellant to file a fresh application before the trial Court for granting one more opportunity to him to produce the witnesses. If such an application is filed, the same shall be disposed of by either allowing the plaintiff-petitioner to adduce evidence or if the trial Court deems it unnecessary to summon the witnesses, reasoned order shall be passed by the trial Court in this regard.

The appeal stands disposed in the light of the aforesaid liberty.

(K.C.SHARMA)J. (GYAN SUDHA MISRA)J.

PCG